



PRELIMINARY DRAFT

No. 3103

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 11-8-8-0.2; IC 31-9-2-0.2; IC 31-11; IC 31-14; IC 31-15-7-0.2; IC 31-16; IC 31-17; IC 31-19; IC 31-27-2-0.2; IC 31-30-1-0.1; IC 31-34-21-0.2; IC 35-50-2-0.2.

Synopsis: Noncode statutes. Codifies certain noncode provisions relating to marriage and family law. Repeals the corresponding noncode provisions. Repeals without codification the following noncode statutes relating to marriage and family law: (1) Two 1989 statutes requiring the state department of health to adopt certain rules and interim guidelines relating to paternity affidavits. (2) A 1996 statute establishing the parental rights study committee.

Effective: July 1, 2011.



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-8-8-0.2 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 0.2. (a) The amendments made to IC 5-2-12-4,**
4 **IC 5-2-12-9, and IC 5-2-12-12 (before their repeal) by P.L.33-1996,**
5 **apply to a child who is adjudicated a delinquent child after June**
6 **30, 1996, for an act that would be an offense described in**
7 **IC 5-2-12-4(1) (before its repeal), as amended by P.L.33-1996.**

8 **(b) The amendments made to IC 5-2-12-9 by P.L.33-1996 apply**
9 **to a person who commits a crime after June 30, 1996.**

10 SECTION 2. IC 31-9-2-0.2 IS ADDED TO THE INDIANA CODE
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2011]: **Sec. 0.2. The amendments made to IC 31-1-11.5-11(a)**
13 **(before its repeal, now codified at section 46 of this chapter) by**
14 **P.L.170-1988 do not apply to actions filed under IC 31-1-11.5-3**
15 **(before its repeal, now codified at IC 31-15-2-2, IC 31-15-2-3, and**
16 **IC 31-16-2-2) that are filed before July 1, 1988.**

17 SECTION 3. IC 31-11-0.1 IS ADDED TO THE INDIANA CODE
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2011]:

20 **Chapter 0.1. Legislative Intent**

21 **Sec. 1. As used in this chapter, "repealed statutes" refer to the**
22 **following statutes repealed by P.L.180-1986:**

23 **(1) IC 16-1-37-7.**

24 **(2) IC 31-1-1.**

25 **(3) IC 31-1-2.**

26 **(4) IC 31-1-3.**

27 **(5) IC 31-1-4.**

28 **(6) IC 31-1-5.**

29 **(7) IC 31-1-6.**

30 **(8) IC 31-1-7.**

31 **(9) IC 31-1-8.**



1 **(10) IC 31-1-9.**

2 **Sec. 2. (a) P.L.180-1986 is intended to be a codification and**
 3 **restatement of applicable or corresponding provisions of the**
 4 **repealed statutes. If P.L.180-1986 repeals and replaces a provision**
 5 **in the same form or in a restated form, the substantive operation**
 6 **and effect of that provision continue uninterrupted.**

7 **(b) P.L.180-1986 does not affect any:**

- 8 **(1) rights or liabilities accrued;**
 9 **(2) penalties incurred;**
 10 **(3) violations committed; or**
 11 **(4) proceedings begun;**

12 **before March 4, 1986. Those rights, liabilities, penalties, offenses,**
 13 **and proceedings continue and shall be imposed and enforced under**
 14 **prior law as if P.L.180-1986 had not been enacted.**

15 SECTION 4. IC 31-11-4-0.2 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2011]: **Sec. 0.2. The addition of IC 31-7-3-15.5 (before its repeal,**
 18 **now codified at section 17 of this chapter) by P.L.143-1994 applies**
 19 **to marriages performed before, on, and after March 8, 1994.**

20 SECTION 5. IC 31-11-4-0.3 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2011]: **Sec. 0.3. (a) If before March 8, 1994:**

- 23 **(1) an individual who solemnized a marriage failed to**
 24 **appropriately complete the marriage certificate or timely file**
 25 **the duplicate marriage certificate and marriage license with**
 26 **the clerk as required by IC 31-7-3-15 (before its repeal, now**
 27 **codified at section 16 of this chapter);**
 28 **(2) a party to the marriage petitioned a circuit court with**
 29 **jurisdiction in the county in which the marriage occurred to**
 30 **affirm the marriage as of the date the marriage occurred; and**
 31 **(3) the court issued an order affirming the marriage as of the**
 32 **date the marriage occurred;**

33 **the court order is legalized and has the same legal effect as a**
 34 **properly attested and filed marriage certificate.**

35 **(b) If the clerk of the court receives a court order affirming the**
 36 **marriage described in subsection (a), the clerk of the court shall**
 37 **issue a duplicate license with the date the marriage occurred to the**
 38 **party who sought declaratory relief.**

39 **(c) The state department of health shall accept the order**
 40 **described in subsection (a) as it accepts other marriage records**
 41 **received from county clerks.**

42 SECTION 6. IC 31-11-4-0.4 IS ADDED TO THE INDIANA CODE
 43 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 44 1, 2011]: **Sec. 0.4. A marriage solemnized under the legal authority**
 45 **of a license that:**

- 46 **(1) was issued under the authority of a circuit, superior, or**



juvenile court after August 31, 1984, and before April 16, 1985; and

(2) would have been validly issued under IC 31-1-1-1 if that statute had been in effect;

is legalized if performed in conformity with all other statutes in effect at the time of the marriage.

SECTION 7. IC 31-11-8-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.3. Marriages between first cousins that were solemnized before April 9, 1907, are legalized.**

SECTION 8. IC 31-11-10-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.3. (a) A judgment for annulment of marriage that was:**

(1) entered before February 27, 1937;

(2) granted because of fraud on the part of a party to the marriage; and

(3) granted in a case in which the defendant received service by publication;

is legalized.

SECTION 9. IC 31-14-1-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2. A determination of paternity or related order that:**

(1) was issued before May 1, 1989;

(2) was issued five (5) or more months after the father's death; and

(3) resulted from a civil proceeding for the establishment of paternity that was filed in accordance with IC 31-6-6.1-6 (before its repeal, now codified at IC 31-14-5 and IC 31-14-11):

(A) during the father's lifetime; or

(B) within five (5) months after the father's death;

is legalized and validated to the same extent as if the determination of paternity or related order had been issued during the father's lifetime or within five (5) months after the father's death.

SECTION 10. IC 31-14-6-0.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.1. The amendments made to section 4 of this chapter by P.L.44-2003 do not negate a court order entered before July 1, 2003, requiring an individual found to be the biological father of a child to reimburse the state or a political subdivision for the costs of genetic testing.**

SECTION 11. IC 31-14-11-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The amendments made to IC 31-6-6.1-13 by P.L.155-1990 (before its repeal, now codified in**



1 this chapter) apply only to a support order issued after June 30,
2 1990.

3 SECTION 12. IC 31-14-14-0.2 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The amendments made to**
6 **IC 31-6-6.1-12 (before its repeal, now codified in this chapter) by**
7 **P.L.270-1989 apply to adoptions in which a final order is issued by**
8 **a trial court after May 5, 1989.**

9 SECTION 13. IC 31-15-7-0.2 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The rebuttable presumption**
12 **established under IC 31-1-11.5-11(c) (before its repeal, now**
13 **codified at section 5 of this chapter), as amended by P.L.283-1987,**
14 **does not apply to the division of marital property in actions for**
15 **marriage dissolution filed before September 1, 1987.**

16 SECTION 14. IC 31-16-9-0.3 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2011]: **Sec. 0.3. An employer who makes a**
19 **deduction from an employee's wages, in accordance with an**
20 **assignment of wages for the payment of child support ordered by**
21 **the court before September 1, 1985, under IC 31-1-11.5-13 (before**
22 **its repeal, now codified in this chapter and at IC 31-16-12), may**
23 **collect a fee of two dollars (\$2) each time the employer makes a**
24 **deduction. The fee may be deducted by the employer from the**
25 **employee's wages each time the employer makes the deduction for**
26 **support.**

27 SECTION 15. IC 31-16-12-0.3 IS ADDED TO THE INDIANA
28 CODE AS A NEW SECTION TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2011]: **Sec. 0.3. (a) It is the intent of the**
30 **general assembly to make contempt and all other remedies for the**
31 **enforcement of a child support order available to assist in the**
32 **enforcement of a child support order regardless of whether the**
33 **child for whom the child support was ordered is emancipated. For**
34 **this purpose, the general assembly is establishing a procedure for**
35 **the enforcement of a child support arrearage through an order**
36 **directing a person to pay a child support arrearage.**

37 **(b) The amendments made to sections 1 and 3 of this chapter by**
38 **P.L.39-2002 apply to a child support arrearage that exists after**
39 **March 14, 2002, regardless of when the arrearage accrued.**

40 SECTION 16. IC 31-17-5-0.2 IS ADDED TO THE INDIANA
41 CODE AS A NEW SECTION TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The amendments made to**
43 **IC 31-1-11.7-2 (before its repeal, now codified at sections 1, 8, 9,**
44 **and 10 of this chapter) by P.L.293-1987 apply to the visitation**
45 **rights of grandparents who have been granted visitation rights**
46 **before September 1, 1985.**



SECTION 17. IC 31-17-5-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.3. The amendments made to IC 31-1-11.7-2, IC 31-1-11.7-3, and IC 31-1-11.7-6 (before their repeal, now codified in this chapter) by P.L.270-1989 apply to adoptions in which a final order is issued by a trial court after May 5, 1989.**

SECTION 18. IC 31-19-9-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The amendments made to IC 31-3-1-6 (before its repeal, now codified in IC 31-19-2, IC 31-19-4, this chapter, and IC 31-19-10) by P.L.293-1987 apply to a petition for adoption, except for a petition on which an adoption decree has been entered before May 4, 1987.**

SECTION 19. IC 31-19-26.5-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The amendments made to IC 31-3-1-4 and IC 31-3-3-2 (before their repeal) by P.L.98-1990 apply to a petition for adoption that:**

- (1) seeks the payment of a subsidy; and**
- (2) is filed after June 30, 1990.**

SECTION 20. IC 31-27-2-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. (a) As used in this section, "division" refers to the division of family resources established by IC 12-13-1-1.**

(b) As used in this section, "special needs foster child" means a child who:

- (1) is placed in a foster family home by the division;**
- (2) has a mental, a physical, or an emotional disability; and**
- (3) will require additional supervision or assistance in behavior management, activities of daily living, or management of medical problems.**

(c) As used in this section, "therapeutic foster child" means a child who:

- (1) is placed in a foster family home by the division;**
- (2) is seriously emotionally disturbed or developmentally disabled; and**
- (3) receives treatment in a foster family home through an integrated array of services supervised and supported by qualified program staff from:**
 - (A) the office of the secretary of family and social services;**
 - (B) a managed care provider that contracts with the division of mental health; or**
 - (C) a licensed child placing agency.**

(d) Except as provided in subsection (e), the division may not



remove a special needs foster child or a therapeutic foster child from a foster family home in which the child is placed before July 1, 1999, because the foster family home does not meet the requirements for operating a:

(1) therapeutic foster family home under IC 12-17.4-4-1.5 (before its repeal), as added by P.L.211-1999; or

(2) special needs foster family home under IC 12-17.4-4-1.7 (before its repeal), as added by P.L.211-1999.

(e) The division may remove a special needs foster child or a therapeutic foster child from a foster family home in which the child is placed before July 1, 1999, because the foster family home does not meet the requirements described in subsection (d)(1) or (d)(2) if the division determines that remaining in the foster family home is not in the child's best interest.

SECTION 21. IC 31-30-1-0.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.1. The amendments made to section 2.5 of this chapter by P.L.131-2009 apply to proceedings pending on or initiated on or after May 12, 2009.**

SECTION 22. IC 31-34-21-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. At a child's first periodic case review occurring after June 30, 1998, the county office of family and children is required to advise the child's parent, guardian, or custodian in writing that a petition to terminate the parent-child relationship must be filed with respect to the child after June 30, 1999, if the child has been removed from the child's parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months. However, if a child's parent, guardian, or custodian fails to appear at the first periodic case review occurring after June 30, 1998, the county office of family and children shall make reasonable efforts to send notice of the advisement to the last known address of the parent, guardian, or custodian.**

SECTION 23. IC 35-50-2-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. For purposes of section 2.1 of this chapter, as added by P.L.284-1985, the juvenile record includes only those adjudications of delinquency after May 31, 1985.**

SECTION 24. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2011]: P.L.17-1985, SECTION 28; P.L.284-1985, SECTION 5; P.L.102-1986, SECTION 5; P.L.180-1986, SECTION 4; P.L.180-1986, SECTION 5; P.L.180-1986, SECTION 7; P.L.283-1987, SECTION 5; P.L.293-1987, SECTION 6; P.L.293-1987, SECTION 7; P.L.170-1988, SECTION 3; P.L.185-1989, SECTION 10;



1 P.L.185-1989, SECTION 11; P.L.261-1989, SECTION 4;
2 P.L.270-1989, SECTION 5; P.L.98-1990, SECTION 6; P.L.155-1990,
3 SECTION 32; P.L.143-1994, SECTION 3; P.L.143-1994, SECTION
4 4; P.L.33-1996, SECTION 11; P.L.205-1996, SECTION 6;
5 P.L.35-1998, SECTION 29; P.L.211-1999, SECTION 6; P.L.39-2002,
6 SECTION 6; P.L.44-2003, SECTION 2; P.L.131-2009, SECTION 79.

